



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking Into Implementation of Federal
Communications Commission Report and Order 04-87, AS IT
Affects the Universal Lifeline Telephone Service Program

Rulemaking 04-12-001

**REQUEST OF THE GREENLINING INSTITUTE FOR AN AWARD OF COMPENSATION
FOR CONTRIBUTIONS TO D. 07-05-030**

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July 6, 2007

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**I. GREENLINING’S PARTICIPATION IN THIS PROCEEDING WAS BENEFICIAL TO
THE COMMISSION AND SUBSTANTIALLY CONTRIBUTED TO D. 07-05-030**

Pursuant to California Public Utilities Code (“CPUC Code”) § 1804(c) and Commission Rules 17.1 through 17.4, the Greenlining Institute (“Greenlining”) respectfully requests a full award of compensation in the amount of \$21,435.08 for substantial contribution to Decision 07-05-030.

Greenlining urges this Commission to closely scrutinize any reduction in Greenlining’s award to determine if the award of compensation has been arbitrarily reduced, despite Greenlining’s contribution and expertise in this proceeding. Greenlining submits that arbitrary reductions have routinely occurred in other similar proceedings and yet has rarely occurred with other intervenors, such as TURN, even in cases where other intervenors have totally failed to achieve the results it sought or where they have sought ten times the amount sought herein. See, for example, TURN’s unsuccessful efforts in Verizon/MCI merger.¹

From the beginning of this proceeding, Greenlining played a lead role. Greenlining took the lead in attempting to bring LifeLine into the twenty-first century by making proposals to change the entire

¹ See A. 05-04-020/D. 05-11-029 where TURN, though unsuccessful, was awarded \$297,543.49 by the Commission in intervenor compensation. In this case, Greenlining had its rates substantially reduced and received only \$92,000 despite fully prevailing and the Commission citing Greenlining’s crucial role. In contrast, TURN completely failed and admitted as much. However, its request for an amount four times what Greenlining was awarded was reduced by *only* 11%.

system from one based on obsolete technology (landlines) to one based on modern technology (cell phones). Greenlining was also one of the only parties to address the issues of the digital divide with respect to low-income and minority communities and to advocate for providing such communities with low-cost cell phone service. Greenlining addressed other issues relevant to low-income and minority communities that were being ignored, such as the need to expand eligibility of LifeLine services to those being left out by factoring in issues such as geographical differences. Additionally, Greenlining conducted vital studies of current LifeLine customers, demonstrating the problems with the current LifeLine program.

In addition to raising such unique issues, Greenlining played a central role at every point within the proceeding. For example, Greenlining filed comments, conducted telecommunications studies, worked with other community-based organizations, provided testimony, engaged in extensive research, and participated in proceeding workshops and all party meetings. Given its distinctive and efficient role in this proceeding and that no other party played such a role, Greenlining believes that full compensation is appropriate. Moreover, Greenlining submits that based on Commission precedent, full compensation is proper since intervenors (like Greenlining) can make significant contributions to proceedings, even if the Commission chooses not to act on or adopt all of those intervenor's specific recommendations.

For all of the reasons stated above, Greenlining respectfully requests an award of compensation in the amount of \$21,435.08.

II. GREENLINING TIMELY FILED THIS REQUEST FOR AWARD OF COMPENSATION

This request for intervenor compensation is being filed within 60 days of May 7, 2007, the date the Commission mailed D. 07-05-030 and is, therefore, timely under CPUC Code § 1804(c). In this proceeding, Greenlining also filed its Notice of Intent to Claim Compensation ("NOI") in a timely manner.²

² Greenlining filed its NOI on February 14, 2005. On September 12, 2006 Administrative Law Judge Jones ruled that the Greenlining Institute is "[e]ligible to claim compensation." See R-04-12-001, filed March 8, 2005.

III. GREENLINING HOLDS CUSTOMER STATUS

The Commission has determined that Greenlining is a Category 3 customer as defined in CPUC Code § 1802(b).³ Greenlining is a formally organized group authorized, pursuant to its articles of incorporation or bylaws, to represent the interests of residential customers and small commercial electric customers. Greenlining's members and constituents are purchasers of telecommunications and energy services from utilities in California, qualifying Greenlining to file as "customers" pursuant to CPUC Code § 1802(b).

In compliance with D. 98-04-059, Conclusion of Law 5 and Finding of Fact 12, Greenlining estimates that it represents a constituency that is divided 75% and 25% between residential customers and small business customers, respectively. These percentages represent Greenlining's best estimates only. Article II, Section 17 of Greenlining's by-laws authorizes it to represent the "interests of low income communities, minorities, and residential ratepayers" before regulatory agencies and courts.

Greenlining and its individual coalition members represent the interests of those who have traditionally been marginalized or excluded from the public utility process: minority, low-income, inner city, and other vulnerable and underserved communities.⁴ Furthermore, Greenlining represents customer interests that would otherwise be unrepresented or underrepresented before this Commission.

³ See Administrative Law Judge's Ruling Finding Several Parties Eligible to Claim Intervenor Compensation in R. 05-04-005 (October 11, 2006).

⁴ The Greenlining Coalition includes but is not limited to the following groups: Allen Temple Baptist Church; American GI Forum; Antioch Baptist Church; Asian Business Association; Black Business Association; California Hispanic Chambers of Commerce; California Journal for Filipino Americans; California Rural Legal Assistance; CHARO Community Development Corporation; Chicana/Latina Foundation; Chicano Federation, San Diego; Council of Asian American Business Association; Economic Business Development; El Concilio of San Mateo County; Filipino-American Political Association; First AME Church, Los Angeles; Hermandad Mexicana Nacional; Hispanic Chamber of Commerce; Hmong American Political Association; KHEIR; Latin Business Association; Latino Issues Forum; Mabuhay Alliance of San Diego; Mexican-American Grocers Association; Mexican-American Political Association; Mission Language & Vocational School; National Federation of Filipino American Associations; Nehemiah Ministries; Oakland Citizens Committee for Urban Renewal (OCCUR); Orange County Minority Business Council; Phoenix Urban League; San Francisco Black Chamber of Commerce; Search to Involve Filipino-Americans; Southeast Asian Community Center; TELACU; West Angeles Church of God in Christ; and West Coast Black Publishers Association.

Greenlining is unique in that it brings to the table the perspectives, experiences, and interests of minority, low-income, inner city, and other vulnerable and underserved communities.

IV. GREENLINING DEMONSTRATES SIGNIFICANT FINANCIAL HARDSHIP

On September 12, 2006 Administrative Law Judge Jones ruled that the Greenlining Institute is “[e]ligible to claim compensation.” This ruling included the required showing for financial hardship by an intervenor.

V. GREENLINING’S SUBSTANTIAL CONTRIBUTIONS

As discussed above, Greenlining made a “substantial contribution” to D.07-05-030 as defined by CPUC Code § 1802(i):

“Substantial contribution” means that, in the judgment of the commission, the customer's presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation.”

Greenlining was actively engaged throughout this proceeding by: 1) filing opening and reply comments; 2) engaging extensive research; 3) participating in proceeding workshops; 4) providing testimony to the Commission; and 6) conducting market studies.

Under the standard set by § 1802(i) Greenlining made substantial contributions to this proceeding in that Greenlining was one of the only parties to push for a modernization of the LifeLine program, as well as addressing the needs of those the LifeLine program was intended to help – namely, low-income and minority communities.

Additionally, Greenlining also made substantial contributions to other issues in the proceeding. Greenlining raised issues specifically related to the needs of low-income and minority rate payers.

Without Greenlining's intervention in the proceeding, these issues would not have been addressed during other parties comments. For example, no other party raised as clearly as Greenlining issues relating to geographical differences in cost of living and how that affects a rate-payers ability to qualify for LifeLine, nor the issues of back-billing and self-certification. Therefore, none of Greenlining's work in these areas was duplicated by other parties.

A. GREENLINING'S PARTICIPATION WAS PRODUCTIVE AND BENEFITED RATEPAYERS

Greenlining contributed to this proceeding in a manner that was productive and resulted in benefits to ratepayers that are especially significant in light of the low cost of Greenlining's participation. Greenlining's participation also benefited the Commission, thereby making full compensation appropriate.

B. BENEFITS TO RATEPAYERS

In determining the value of Greenlining's participation, the Commission should consider that Greenlining's participation benefited those ratepayers whose voices the Commission would not have otherwise heard. Greenlining was one of the only parties to raise issues related to backbilling, geographical differences in low-income and minority communities as well as bringing LifeLine into the 21st century by applying LifeLine to cell phones.

C. GREENLINING'S PRODUCTIVITY

The Commission has held that "productivity" concerns the party's efficiency and reasonableness in terms of cost of the participation.⁵ The cost of Greenlining's participation in this proceeding is modest and, for several reasons, quite reasonable. First, Greenlining was highly efficient as detailed below.

⁵ See D. 00-02-044 at 14

Second, Greenlining's in-house staff is requesting compensation for 64.8 hours of work, which was spent over the course of this proceeding. This includes the time spent researching, developing innovative strategies, preparing and filing briefs, and reviewing other parties' filings and Commission rulings.⁶ Fourth, the hourly rates requested, as detailed below, are more than reasonable since they are below-market rates.

D. DUPLICATION

By making intervenor compensation mandatory for any customer who makes a substantial contribution and meets the financial hardship requirement, the Legislature effectively eliminated any other obstacles to participation and to compensation for the costs of participation.⁷ The Legislature specifically provided for multifarious, overlapping, and duplicative participation by customers in all manner of Commission proceedings.⁸ Greenlining can and does distinguish our contributions from those made by other parties in that Greenlining was the only party to raise issues related to bringing Lifeline into the 21st century for low-income and minority customers.

E. REASONABLENESS OF REQUESTED COMPENSATION

Greenlining is requesting compensation in the amount of \$28,120.58 for the time reasonably devoted to this proceeding, as well as for the expenses it incurred for our participation. Given the substantial contributions (made in a productive, efficient, and non-duplicative manner) Greenlining made to the proceeding, full compensation is appropriate. Furthermore, even where the contributions were not wholly adopted by the decision, these contributions were beneficial to the Commission.⁹

Provided below is a summary table and explanation of hours claimed, hourly rates, and direct expenses. A more detailed breakdown of the time devoted to this proceeding by Greenlining's attorneys,

⁶ See *supra* and related attachment

⁷ See D. 03-03-031; §1802.5

⁸ *Id.*

⁹ See D. 04-08-025

staff and experts are provided in Exhibit A and B to this filing. As the data below demonstrates, our work was performed very efficiently. All of the work was delegated to the appropriate members of Greenlining's team as described in more detail in below.

Attorney and Advocate Fees	Year	Hours	Rate	Total
Robert Gnaizda	2006	2.2	\$505.00	\$1,111.00
Robert Gnaizda	2007	30.9	\$520.00	\$16,068.00
Thalia Gonzalez	2006	.5	\$195.00	\$97.50
Thalia Gonzalez	2007	18	\$215.00	\$3870.00

Subtotal: **\$21,146.50**

Direct Expenses	Total
Photocopying (1,919 @ .10 per copy)	\$191.90
Postage costs	\$96.68

Subtotal: **\$288.58**

TOTAL: **\$21,435.08**

F. THE HOURS CLAIMED BY GREENLINING ARE REASONABLE

The daily listings of the specific tasks performed by Greenlining's General Counsel, Robert Gnaizda, in connection with this proceeding are attached and labeled as Exhibit A. Mr. Gnaizda provided his expertise and policy input on all communications with the Commission and with other parties. The daily listings of specific tasks performed by Greenlining Senior Legal Counsel, Thalia Gonzalez, in connection with this proceeding are attached and labeled as Exhibit B.

The work done by Greenlining's attorneys and staff, as a team and as individuals, demonstrates that the hours claimed are reasonable, particularly given the scope of this proceeding.

G. GREENLINING'S REASONABLE AND BELOW-MARKET HOURLY RATES

The reasonableness of the proposed hourly rates for Greenlining's attorney, staff and experts are supported by various factors including market rates, their experience, their areas of expertise, and their previous work before this Commission. Greenlining submits to the Commission that of equal and related importance to the nature and reasonableness of Greenlining's proposed hours is that the hourly rates for experienced attorneys, experts and advocates, as allowed by this Commission, grossly understate fair market value.¹⁰ For example, if this Commission paid intervenor compensation at a fair market value Ms. Gonzalez would receive an hourly rate of \$300 or more and Mr. Gnaizda would receive an hourly rate of \$755 or more, as Southern California Edison's attorneys were being paid.¹¹ Given these fair market rates Greenlining's compensation should be approximately \$30,829.08 and not a mere \$21,435.08.

While, Greenlining does not seek any additional compensation based on the underestimation of the fair market rate of attorneys and experts, it does wish to call this issue to the attention of the Commission. Greenlining submits the issue of fair market value and compensation is particularly important to this proceeding. Therefore, Greenlining's request for compensation, should any of the parties or the Commission believe that some or all of Greenlining's hours should be disallowed, should be reviewed within this context.

i. ROBERT GNAIZDA'S HOURLY RATES

Robert Gnaizda is Greenlining's General Counsel and Policy Director, and has been for 13 years. Mr. Gnaizda graduated from Yale Law School in 1960 and was admitted to the New York State Bar that

¹⁰ See D.07-01-009; Since the beginning of 2007, compensation for attorneys in California has risen by approximately \$35,000. Based on these salaries the hourly rate for a first year associate is \$245 per hour. See The Recorder articles May 7, 2007, May 8, 2007 and May 11, 2007.

¹¹ See Southern California Edison's Response to Question No. 2 of Greenlining's Fifth Set of Data Requests dated November 3, 2006, in which Edison confirmed that attorneys from O'Melveny and Myers were billing at up \$755 an hour.

same year. Mr. Gnaizda's litigation experience commenced in 1961, and he has been representing underserved communities before the Commission since 1971.

Based on Mr. Gnaizda's significant litigation and Commission experience, the Commission set Mr. Gnaizda's 2006 hourly rate at a maximum of \$505 in D. 07-01-009. Given his extensive experience, Greenlining submits these hourly rates are significantly low. Attorneys with 35 or more years of experience are regularly awarded hourly rates ranging from \$500 to \$550 for work in 2001 and 2002.¹² Attorneys with even less experience before the CPUC were billing utility companies up to \$755 an hour.¹³ Based on his experience and contributions, Greenlining's request for the maximum allowed 2006 rate of \$505 and maximum allowed 2007 rate of \$520 for Mr. Gnaizda's participation in this proceeding is quite reasonable.

ii. THALIA GONZALEZ'S HOURLY RATE

Ms. Thalia Gonzalez is Senior Legal Counsel of the Greenlining Institute. Prior to joining Greenlining, Ms. Gonzalez was an associate at Reed Smith LLP and worked for the American Civil Liberties Union. Ms. Gonzalez holds a BA in Anthropology from Arizona State University, graduating summa cum laude and a JD from Northwestern University School of Law.

Based on her experience and contributions to this proceeding, a 2006 rate of \$195 and 2007 rate of \$215 for Ms. Gonzalez are quite reasonable and consistent with the rates awarded by the Commission.

¹² Attorneys are also awarded substantially higher rates, including one attorney who was awarded a 2001 hourly rate of \$1,000 plus a 50% multiplier. See Pearl Declaration at ¶8, citing *Baskins v. Culligan*, Los Angeles Superior Court No. BC 177201, Order filed August 29, 2001. See also Pearl Declaration included as Attachment 6 to Greenlining's request for compensation in I. 02-04-026 at ¶8.

¹³ See Southern California Edison's Response to Question No. 2 of Greenlining's Fifth Set of Data Requests dated November 3, 2006.

**VI. CONCLUSION: GREENLINING IS ENTITLED TO INTERVENOR COMPENSATION
TOTALING \$28,120.58 FOR OUR SUBSTANTIAL CONTRIBUTIONS TO D. 07-05-030**

Greenlining has met all the requirements of CPUC Code § 1801 et seq. Greenlining also has satisfied the requirements of achieving customer status, demonstrating financial hardship, and providing all required information in this document. Greenlining also made a substantial contribution to this proceeding in a productive and efficient manner and avoided duplication where possible. Even though the Commission did not wholly adopt all of Greenlining's recommendations, its contributions were beneficial to the Commission. Additionally, Greenlining has provided herein a detailed itemization of the costs of participation and has demonstrated the reasonableness of the requested hourly rates. Therefore, Greenlining is entitled to full intervenor compensation in the amount of \$21,435.08

Dated: July 6, 2007

Respectfully submitted,

/s/ Robert Gnaizda
Robert Gnaizda
The Greenlining Institute

/s/ Thalia N.C. Gonzalez
Thalia N.C. Gonzalez
The Greenlining Institute

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VERIFICATION

I am General Counsel of the Greenlining Institute and am authorized to make this verification on its behalf. The statements in the foregoing document entitled:

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FOR CONTRIBUTIONS TO D. 07-05-030**

and dated July 7, 2007 are true of my own knowledge, except as to the matters which are therein stated on information and belief and as to those matters I believe them to be true.

I declare under penalty of perjury under California law that the foregoing is true and correct.

Executed on July 6, 2007 at Berkeley, California.

By: /s/ Robert Gnaizda
Robert Gnaizda
General Counsel
The Greenlining Institute

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CERTIFICATE OF SERVICE

I, Thalia N.C. Gonzalez, am 18 years of age or older and a non-party to the within proceeding. I am a resident and citizen of the State of California with the business address at the Greenlining Institute of 1918 University Avenue, Second Floor, Berkeley, CA 94704 and telephone number of 510-926-4002.

On July 7, 2007, I caused the following document:

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To be served upon all interested parties of record in R 04-12-001 named in the official service list via e-mail to those whose e-mail address is listed in the official service list and via mail to those whose e-mail address is not available.

I certify that the foregoing is true and correct.

Executed in Berkeley, California on July 6, 2007.

/s/ Thalia N.C. Gonzalez

Thalia N.C. Gonzalez

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EXHIBIT A

Robert Gnaizda Hours
The Greenlining Institute
1918 University Avenue, 2nd Floor
Berkeley, CA 94704

Proceeding: R-04-12-001

Date	Explanation	Time
2-Nov-06	Review ALJ ruling.	1
26-Nov-06	Met with Greenling staff.	1.2
28-Jan-07	Researched and developed plan re: lifeline cell phone.	1.5
29-Jan-07	Discussion with staff for ideas re: cell phone based Lifeline program.	1.4
30-Jan-07	Meeting Commissioner Chong; meeting with Greenlining staff.	2.3
1-Feb-07	Contacted Greenlining coalition; research	0.7
12-Feb-07	Meeting with AT&T and Greenlining Coalition	1.4
13-Feb-07	Drafted letter to CPUC	2.2
15-Feb-07	Final draft of CPUC letter; meeting with AT&T	1.4

28-Feb-07	Review of comments	0.8
28-Mar-07	Review of ruling	0.8
3-Apr-07	Review of Proposed Decision	2.8
4-Apr-07	Discussion with Greenlining staff re: proposed decision and scope of Greenlining Comments.	1.9
16-Apr-07	Drafted Comments	1.3
17-Apr-07	Discussion with Gonzalez; Reviewed draft of Comments.	1.7
17-Apr-07	Research; conference call with Commission staff.	0.4
24-Apr-07	Review of filing of TURN and AT&T comments.	2.7
26-Apr-07	Met with Gonzalez and reviewed draft reply comments and made revisions	1.6
30-Apr-07	Review of second and third drafts of reply comments and made revisions.	2.7
1-May-07	Meeting with Phillips	0.2
9-May-07	Review of Gruenich decision	2.4

22-May-07	Research on low-cost cell phones and possible changes.	0.7
	Total Hours:	33.1

EXHIBIT B

Thalia Gonzalez Hours
The Greenlining Institute
1918 University Avenue, 2nd Floor
Berkeley, CA 94704

Proceeding: R-04-12-001

Date	Explanation	Time
11/01/06	Reviewed Commissioner's ruling for reopening of proceeding	.5
4/17/07	Drafted Greenlining comments	3.75
4/17/07	Met with Gnaizda re: Greenlining comments	.5
4/23/07	Filed Greenlining comments	.25
4/24/07	Reviewed parties comments; Drafted Greenlining reply comments	3.0
4/26/07	Drafted Greenlining reply comments; Met with Gnaizda re: Greenlining reply comments and Filed Greenlining reply comments	1.75
5/1/07	Reviewed other parties comments; Met with Gnaizda; Drafted Motion to Strike	2.25
5/2/07	Filed Motion to Strike comments of SureWest and Small LECs	.25

	TOTAL HOURS	18.5
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